

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Harman Analyst: Kristina E. North Bill Number: AB 2630

Related Bills: See Legislative History Telephone: 845-6978 Amended Date: May 23, 2002

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Charitable Contribution Deduction/Qualified Conservation Contributions/Allows Carryover Until Used

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

X AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 22,
Amended April 18, 2002, STILL APPLY.

OTHER - See comments below.

SUMMARY

This bill would allow farming businesses to fully use the tax benefit of contributing land for charitable purposes.

SUMMARY OF AMENDMENTS

The proposed amendments would:

- ◆ limit the contributions to conservation easements;
- ◆ expand the definition of farming business to potentially include taxpayers that historically have not been "farmers" for the purpose of the conservation easement deduction; and
- ◆ make the unlimited carryover apply to contributions made in taxable years beginning on or after January 1, 2002.

Except for these changes, the new implementation consideration, and the new revenue estimate below, the remainder of the department's analysis of the bill as introduced February 22, and as amended April 18, 2002, still applies. The position remains pending.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ X PENDING

Legislative Director

Date

Brian Putler

6/4/02

IMPLEMENTATION CONSIDERATION

It is unclear if an excess contribution incurred prior to January 1, 2002, could be carried forward to all succeeding taxable years, until exhausted. The author has indicated the intent to amend the bill to resolve this concern.

Revenue Estimate

Revenue losses for the proposed amendments pertaining to farmers who may currently claim a conservation easement deduction are projected to be minor—less than \$150,000 for the first impact year, increasing to \$300,000 and \$400,000 in the subsequent years. The first impact year would be after five years, 2007/2008.

Revenue Impact of AB 2630 As Proposed to Be Amended Tax Years Beginning After January 1, 2002 Enactment Assumed After June 30, 2002			
Immediate Impact of Provision for Non-traditional Farming Businesses	-\$150,000 annually beginning in 2002/2003		
	2007/2008	2008/2009	2009/2010
Effect of Extended Carryover Provision for Traditional and Non-Traditional Farming Businesses	-\$150,000	-\$300,000	-\$400,000

The previous estimate included only crop and livestock production. According to industry sources, the market value of qualifying contributions for these two groups would be nearly \$3 million annually. By defining farming businesses as those “described” rather than “properly classified” in the Standard Industrial Classification (SIC) Codes 0111 through 0291, the proposed amendment may, based upon a recent decision interpreting this exact language for purposes of the Manufacturers' Investment Credit, allow taxpayers in non-traditional farming businesses to take this deduction, which would have an immediate revenue impact. It is not possible to project the amount of additional contributions that may be claimed as a result of this expansion. The estimate above assumes the contributions for non-traditional farmers could equal one-half of that for traditional farmers or \$1.5 million annually. Under current law, non-traditional farming businesses are not able to claim fair market value deductions for the contribution of easements with respect to real property.

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